

1 FAM 240 OFFICE OF THE LEGAL ADVISER (L)

1 FAM 241 LEGAL ADVISER (L)

1 FAM 241.1 Responsibilities

(TL:ORG-62; 1-31-95)

- a. Reports directly to the Secretary of State.
- b. Is administratively equivalent to an assistant secretary.
- c. Provides legal advice to the Secretary, and through him the National Security Council and the President, the Deputy Secretary, and other top level officers of the Department on all problems (domestic and international) arising in the course of the Department's activities.
- d. Brings legal considerations to bear in formulating and carrying out U.S. foreign policy and in the administration of the Department and the Foreign Service.
- e. Participates in international negotiations and represents the U.S. Government in international conferences related to legal issues.
- f. Represents the Department on legal concerns at interagency meetings, congressional hearings, and at meetings of private organizations.
- g. Acts as the Department's point-of-contact with the Departments of Justice and Treasury, and other law enforcement agencies with respect to sensitive law enforcement operations, prosecutions, and other individual cases that may affect the conduct of U.S. foreign policy.
- h. Represents the United States in international litigation, and assists the Justice Department in domestic litigation which involves the Department.
- i. Serves as Chairman of the Department's Advisory Committees on International Law and Private International Law.
- j. Authorizes production of Department witnesses and records in response to legal process.
- k. Has substantive and coordinating responsibility for the following *Foreign Affairs Manual* (FAM) materials:
 - (1) 1 FAM 240 —Office of the Legal Adviser;

(2) 2 FAM 070 —Legal Affairs; and

(3) 2 FAM 960 —Official Gifts to the Department of State.

L also has substantive responsibilities in other areas of the FAM as applicable.

1 FAM 241.2 Organization

(TL:ORG-62; 1-31-95)

An organization chart of L is found as 1 FAM 241 Exhibit 241.2 .

1 FAM 241.3 Authorities

(TL:ORG-62; 1-31-95)

- a. 22 U.S.C. 2651a and 2656.
- b. 1 U.S.C. 112a and 112b (collection and transmission to Congress of international agreements).
- c. 5 U.S.C. Appendix 101-110 (Ethics in Government Act of 1978).
- d. 18 U.S.C. 3181, 3184 through 3188, 3193, and 3195 (international extradition).
- e. 22 U.S.C. 1972 (Fishermen's Protective Act).
- f. 22 U.S.C. 2660 (providing copies of treaties to the Public Printer).
- g. 22 U.S.C. 2669(b) and (f) (international and tort claims, respectively).
- h. 22 U.S.C. 2698 (procurement of legal services abroad).
- i. 22 U.S.C. 2710 (expenses of arbitration).
- j. 8 U.S.C. 1104 and 1503 (Board of Appellate Review—L/BAR).
- k. Other authorities, as appropriate.

1 FAM 242 DEPUTY LEGAL ADVISERS

(TL:ORG-62; 1-31-95)

On behalf of the Legal Adviser, the Deputy Legal Advisers direct and carry out responsibilities concerning provision of legal advice and services and provide effective and coordinated supervision of the legal activities of the office.

1 FAM 243 COUNSELOR, INTERNATIONAL LAW

(TL:ORG-62; 1-31-95)

a. Assists the Legal Adviser in advising the Secretary and, through the Secretary, the National Security Council and the President on domestic and international law aspects of national policy, positions, and plans.

b. Acts as liaison officer for the Legal Adviser with the academic community, bar associations, and others involved in the practice and development of domestic and international law.

c. Provides specialized advice, conducts long-term studies, and directs complex and typically politically sensitive projects as assigned by the Legal Adviser.

1 FAM 244 EXECUTIVE DIRECTOR (L/EX)

(TL:ORG-62; 1-31-95)

a. Directs administrative management and support activities within the Office of the Legal Adviser, including administrative policy development, budget planning and control, financial management, personnel management and services, information systems management, general office services and property management, security, management analysis and evaluation, procurement and contracting, internal communications, record keeping and paper work management.

b. Serves as the internal control manager for the Office of the Legal Adviser and establishes and maintains internal management controls to prevent waste, fraud, abuse and mismanagement of the bureau's resources. Periodically assesses the relative vulnerability of the bureau's internal control areas, conducts internal control reviews and corrects identified problems.

c. Supervises the Law Library, which is responsible for the development, selection, acquisition, and management of the Office's legal collection, as well as the administration of legal research and cataloging services.

d. Accepts legal service on behalf of the Secretary of State and Department of State officials in their official capacities.

1 FAM 245 GEOGRAPHIC ASSISTANT LEGAL ADVISERS

(TL:ORG-62; 1-31-95)

The geographic legal officers:

- (1) Provide general legal advice to their respective geographic bureaus;
- (2) Work closely with officers of the Department and other interested agencies within the foreign policy community; and
- (3) Provide both formal and informal legal advice on questions of international and domestic law, including the drafting and interpretation of international agreements, domestic statutes, executive orders, and other legal documents.

1 FAM 245.1 African Affairs (L/AF)

(TL:ORG-62; 1-31-95)

Provides general legal advice on matters relating to the African area.

1 FAM 245.2 East Asian and Pacific Affairs (L/EAP)

(TL:ORG-62; 1-31-95)

Provides general legal advice on matters relating to East Asia and the Pacific area.

1 FAM 245.3 European and Canadian Affairs (L/EUR)

(TL:ORG-62; 1-31-95)

Provides general legal advice on matters relating to Europe and Canada, including the independent states of the former Soviet Union.

1 FAM 245.4 Inter-American Affairs (L/ARA)

(TL:ORG-62; 1-31-95)

Provides general legal advice on matters relating to Latin America and the Caribbean.

1 FAM 245.5 Near Eastern and South Asian Affairs (L/NEA)

(TL:ORG-62; 1-31-95)

Provides general legal advice on matters relating to the Near East and South Asia.

1 FAM 246 FUNCTIONAL ASSISTANT LEGAL ADVISERS

(TL:ORG-62; 1-31-95)

The functional legal offices provide general legal advice to the various functional bureaus, and to other bureaus on matters within their special competence.

1 FAM 246.1 Buildings and Acquisitions (L/BA)

(TL:ORG-62; 1-31-95)

Provides legal advice and representation in:

- (1) Solicitation, award and administration of Federal acquisition contracts;
- (2) Acquisition and development of real property abroad;
- (3) Negotiation and litigation of contract disputes; in the defense of bid protests at the General Accounting Office and General Services Board of Contract Appeals;
- (4) Management of Government property domestically and abroad;
- (5) Drafting and interpretation of Federal acquisition laws, regulations and policies;
- (6) Oversight and administration of employee associations and American schools at posts abroad; and

(7) Grant and cooperative agreement law, regulations, policies and administration.

1 FAM 246.2 Consular Affairs (L/CA)

(TL:ORG-62; 1-31-95)

a. Provides general legal advice concerning:

(1) Immigration, citizenship, and passport problems;

(2) The protection of U.S. citizens abroad, international judicial assistance; and

(3) Domestic laws, regulations, and litigation relating to consular affairs.

b. Assists L/SFP in cases involving waivers of consular immunities.

1 FAM 246.3 Economic, Business, and Communications Affairs (L/EBC)

(TL:ORG-62; 1-31-95)

a. Provides general legal advice on United States policy and relations in such matters as economic sanctions, export and import controls, transfer of technology, trade, antitrust and other business relations, civil aviation, maritime, energy, investment protection (including bilateral investment and FCN treaties and, and with L/CID, expropriation matters), international communications and information flow, tax, monetary affairs, and intellectual property.

b. L/EBC is responsible for the issue of extraterritorial application of U.S. law.

1 FAM 246.4 Educational, Cultural, and Public Affairs (L/ECP)

(TL:ORG-62; 1-31-95)

a. Provides legal advice on international educational and cultural exchanges, protection of stolen cultural property, and immunity from judicial seizure of cultural exhibitions, including relevant statutes and agreements.

b. Provides legal advice to the Bureau of Public Affairs on anti-lobbying, publicity and propaganda statutes.

c. Handles certain residual problems of World War II involving the gold pool, enemy assets, looted objects, etc.

1 FAM 246.5 Ethics and Personnel (L/EP)

(TL:ORG-62; 1-31-95)

a. Advises the Secretary of State and other officials on the Ethics in Government Act of 1978, the Hatch Act, the Foreign Service Act, and other applicable laws, Executive Orders, and regulations.

b. Provides legal advice and services to the Director General of the Foreign Service and Director of Personnel, and others involved in the management of the Department's human resources, medical, and labor relations matters.

c. Conducts hearings before EEOC, MSPB, and Foreign Service Grievance Board, and supports personnel litigation in Federal courts.

d. Directs the financial disclosure reporting and review program as required by the Ethics in Government Act of 1978, Executive Orders and regulations, and other applicable laws.

1 FAM 246.6 Human Rights and Refugees (L/HRR)

(TL:ORG-62; 1-31-95)

Provides legal advice to the Department on human rights and refugee matters in foreign affairs, in both bilateral and multilateral contracts, including promotion of democracy and rule of law programs, worker rights and international labor issues, asylum, migration and population issues, negotiation and ratification of human rights treaties, and interpretation and application of domestic laws related to human rights and refugees.

1 FAM 246.7 International Claims and Investment Disputes (L/CID)

(TL:ORG-62; 1-31-95)

Provides general legal advice and representation, and coordinates activities within and outside the Department, with respect to all aspects of international claims and investment disputes, including:

(1) Claims under international law by the United States and U.S. nationals against foreign governments and vice versa; claims relating to nationalization, confiscation, breach of contract, denial of justice, war damage, mob violence, wrongful death, personal injury, expulsion, imprisonment; espousal of claims, negotiation of lump sum settlements, and presentation of claims before dispute settlement bodies; tort claims, domestic law and litigation relating to all the foregoing.

(2) Claims pending before the Iran-United States Claims Tribunal in The Hague and claims against Iraq before the United Nations Compensation Commission in Geneva; policies pertaining to, and legal positions taken before, the Tribunal and the Commission; associated litigation in the United States;

(3) Expropriation and other international property and investment disputes between U.S. nationals and foreign governments from inception through settlement, including questions of domestic and international law, standards of compensation, promotion of international investment dispute settlement machinery, and related issues in bilateral or multilateral fora; including service on the Interagency Expropriation Group.

1 FAM 246.8 Law Enforcement and Intelligence (L/LEI)

(TL:ORG-62; 1-31-95)

Provides legal advice and services on international aspects of law enforcement matters, including the international extradition of fugitives, legal assistance in the administration of justice in criminal matters, and illicit or questionable payments by U.S. firms in connection with international commercial transactions. Provides legal advice to the Bureau of Intelligence and Research on domestic and international legal aspects of intelligence matters, including coordination with appropriate agencies in connection with legislation, regulations and litigation concerning intelligence activities. Provides legal advice to Department policy bureaus on international anti-narcotics and anti-terrorism issues, and to the Bureau of Diplomatic Security on law enforcement issues.

1 FAM 246.9 Legislation and General Management (L/LM)

(TL:ORG-62; 1-31-95)

Provides legal advice to all management and administrative officers of the Department in the United States and abroad, including the Chief Financial Officer, the Assistant Secretaries for Administration, Diplomatic Security, Legislative Affairs, and International Organization Affairs, and the other constituent officers within the responsibility of the Under Secretary for Management; and prepares and advises on domestic legislation, regulations, orders, and policies affecting management and administrative operations of the Department, including the Freedom of Information, Privacy, Federal Advisory Committee and Federal Records Acts, and security classification requirements.

1 FAM 246.10 Oceans, International Environmental and Scientific Affairs (L/OES)

(TL:ORG-62; 1-31-95)

Provides legal advice and assistance to the Bureau of Oceans and International Environmental and Scientific Affairs (OES) and other U.S. Government agencies concerning the development, negotiation, interpretation, and application of customary and conventional international law, as well as domestic law, relating to:

(1) Oceans, including the law of the sea, fisheries, maritime boundaries, marine pollution, marine mammals, deep seabed mining, maritime drug interdiction, marine scientific research, navigation and overflight freedoms, and baselines;

(2) The environment and conservation, including marine pollution, transboundary air pollution, climate change, biodiversity, stratospheric ozone depletion, biotechnology, desertification, forests, wetlands, energy efficiency, transboundary pollution, hazardous wastes, trade and environment, environmental impact assessment, endangered species, protected marine species, the UN Commission on Sustainable Development, war and the environment, liability for environmental damage, and financial assistance to developing countries;

(3) Scientific and technological affairs, including technology transfer and intellectual property rights;

(4) Outer space, including the Space Station agreements; and

(5) Polar affairs, including all matters related to the Antarctic Treaty system.

1 FAM 246.11 Politico-Military Affairs (L/PM)

(TL:ORG-62; 1-31-95)

a. Provides legal advice and assistance as required by the Bureau of Political-Military Affairs and other bureaus in the Department on matters relating to:

(1) Global military and political-military activities, including base rights and status of forces agreements, foreign military claims and suits against U.S. armed forces;

(2) Foreign military assistance, including technical assistance, foreign military sales, and security assistance;

(3) Military applications of atomic/nuclear energy and space technology;

(4) Munitions export control; naval vessel loans program;

(5) Disarmament;

(6) U.S. and foreign government aircraft, vessels, and nuclear-powered warships;

(7) Nuclear energy and technology, nuclear policy and operations, peaceful international nuclear cooperation, nuclear export activities and nuclear non-proliferation, including implementation of the Nuclear Non-Proliferation Act of 1978 and the Atomic Energy Act of 1954, as amended; and

(8) Laws of war including Geneva Red Cross Conventions and Hague Conventions and Rules.

b. Assists in drafting related laws, regulations, procedures, and agreements.

1 FAM 246.12 Private International Law (L/PIL)

(TL:ORG-62; 1-31-95)

a. Provides general legal advice and representation, and coordinates activities within and outside the Department, concerning the development of private international law, including:

(1) U.S. participation in the activities of the UN Commission on International Trade Law, the Hague Conference on Private International Law, the International Institute for the Unification of Private Law and the private international law activities of the Organization of American States.

(2) U.S. participation in bilateral and multilateral intergovernmental treaty negotiations and other international activities to unify and harmonize private international law;

(3) Department efforts within the executive branch and vis-a-vis the Congress and the U.S. academic and legal communities concerning U.S. ratification of private international law conventions and treaties, enactment of implementing legislation, and establishment of procedures for implementation.

b. Serves as Vice-Chairman and Executive Director of the Department's Advisory Committee on Private International Law.

1 FAM 246.13 Special Functional Problems (L/SFP)

(TL:ORG-62; 1-31-95)

Provides legal advice and assistance to the Office of the Foreign Missions, the Office of Protocol, and other offices as required, generally with respect to issues involving diplomatic law. Substantive responsibilities relate particularly to the following areas:

(1) Interpretation and application of international agreements and domestic statutes pertaining to U.S. and foreign diplomatic and consular missions and personnel, including the Vienna Convention on Diplomatic Relations, the Vienna Convention on Consular Relations, the Diplomatic Relations Act and the Foreign Missions Act;

(2) Legal issues relating to immunity of foreign states in the U.S., including interpretation and application of the Foreign Sovereign Immunities Act;

(3) Legal issues relating to immunity of the U.S. Government and its personnel in litigation abroad;

(4) Legal issues relating to head of state immunity.

1 FAM 246.14 Treaty Affairs (L/T)

(TL:ORG-62; 1-31-95)

Provides general legal advice on all aspects of treaty law and procedure, including constitutional questions, drafting, negotiation, conclusion, interpretation, and termination of treaties.

1 FAM 246.15 United Nations Affairs (L/UNA)

(TL:ORG-62; 1-31-95)

Provides legal advice on problems and challenges arising from United States participation in the United Nations system, including intergovernmental organizations, and in international conferences, such as those concerned with outer space, development of international law, human rights, dependent territories, pacific settlement of disputes, peacekeeping, and privileges and immunities.

1 FAM 247 BOARD OF APPELLATE REVIEW (L/BAR)

1 FAM 247.1 Purpose

(TL:ORG-62; 1-31-95)

a. A Board of Appellate Review (L/BAR), exists in the Office of the Legal Adviser to consider and determine appeals within its jurisdiction (see 2 FAM 247.3). The Board, a quasi-judicial and autonomous body, takes any action it considers appropriate and necessary as to the disposition of the cases appealed to it. The merits of appeals or decisions of the Board are not subject to review by the Legal Adviser or any other Department official.

b. The Board may adopt and promulgate rules of procedure approved by the Secretary of State as may be necessary to govern its proceedings.

1 FAM 247.2 Membership

(TL:ORG-62; 1-31-95)

The Board consists of regular and ad hoc members as the Legal Adviser may designate. Regular members, one of whom shall be designated by the Legal Adviser as Chairperson, serves on a full-time basis. Ad hoc members may be designated from among senior officers of the Department or from among persons not employed by the Department. Regular members and ad hoc members shall be attorneys in good standing admitted to practice in any State of the United States, the District of Columbia, or any territory or possession of the United States.

1 FAM 247.3 Board Jurisdiction

(TL:ORG-62; 1-31-95)

The jurisdiction of the Board includes appeals from decisions in the cases that follow.

1 FAM 247.3-1 Nationality Cases

(TL:ORG-62; 1-31-95)

Appeals from administrative determinations or loss of nationality or expatriation under 22 CFR Part 50, Subpart C of the Departmental Regulations published in the Code of Federal Regulations.

1 FAM 247.3-2 Passport Cases

(TL:ORG-62; 1-31-95)

Appeals for administrative decisions denying, revoking, restricting, or invalidating a passport under sections 51.70 and 51.71 of Part 50 of the Departmental Regulation published in 22 CFR.

1 FAM 247.3-3 Contract Disputes

(TL:ORG-62; 1-31-95)

Appeals from final decisions of contracting officers arising under contracts or grants of the Department of State, not otherwise provided for under Part 6-60 of the Departmental regulations (DOSPR) published in 41 CFR.

1 FAM 247.3-4 Fair Labor Standards

(TL:ORG-62; 1-31-95)

Appeals from administrative determinations under 64.1(a) of 22 CFR, denying U.S. Government assistance to U.S. nationals who do not comply with the Fair Labor Standards in 61.2 of 22 CFR.

1 FAM 247.3-5 Other Matters

(TL:ORG-62; 1-31-95)

Appeals from administrative decisions of the Department of State in such other cases and under such terms of reference as the Secretary of State may authorize.

1 FAM 248 AND 249 UNASSIGNED

1 FAM 241 Exhibit 241.2 OFFICE OF THE LEGAL ADVISER

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